

No. 9/5/84-6 Lab/4435.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award to Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Maruti Udyog Ltd., Gurgaon :—

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT  
FARIDABAD.

Reference No. 420 of 83

between

SHRI PARMESHWAR SHARMA, WORKMAN, AND THE RESPONDENT-MANAGEMENT  
OF M/S MARUTI UDYOG LTD., GURGAON.

Present :—

Shri R.N. Roy, for the workman.

Shri M.P. Gupta, for the respondent.

#### AWARD

This reference has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/DGN/125-83/64361-66, dated 8th December, 1983, under section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication of the industrial dispute existing between Shri Parmeshwar Sharma, workman and the respondent-management of M/s Maruti Udyog Ltd., Gurgaon. The term of the reference is :—

Whether the termination of services of Shri Parmeshwar Sharma was justified and in order ? If not to what relief is he entitled ?

According to the claim statement, the claimant was appointed on 8th December, 1979 as watchman. He reported on duty at 10.00 p.m. on 17th March, 1983. His duty was to last upto 6.00 p.m. on 18th March, 1983. He was on round from 10.00 p.m. to 12.00 p.m. in the factory premises. Thereafter he relieved Shri Chandu Lal in the office. Shri Chandu Lal reported to Shri P.S. Yadav that a glass pane of window was broken. The locks at the gate were intact. Major Nagar Singh came to the factory at about 3.00 p.m. and inspected the tool room and the office room. Shri Chhottey Lal, took charge from him at 6.00 a.m. on 18th March, 1983. The Security Officer did not detect any theft. On 5th April, 1983 a charge-sheet was served upon the workman, no FIR of theft was lodged with the police. Hence the allegation in the charge-sheet are totally false. These allegations do not amount to gross negligence or fraud or dishonesty or willful damage or loss of employer's property. This charge-sheet was replied and enquiry was held. This enquiry is challenged on the grounds that the statements of the witnesses were not supplied to the workman. He was not allowed to be represented. He was not supplied the enquiry findings. The demand notice dated 14th October, 1983 was served. The workman has prayed for reinstatement with back wages.

This claim statement has been contested by the management. Preliminary objections are taken that the removal of the claimant is justified and in order. In case the enquiry is vitiated the management be given opportunity to lead evidence. It is alleged that the workman was grossly negligent. The management has lost confidence in him. Hence he is not entitled to the benefit of reinstatement. It is further alleged that Shri O.P. Gupta conducted the enquiry after giving full opportunity to the workman. The enquiry Officer found the charges proved. Hence services of the workman were terminated,—vide letter dated 30th August, 1983. It is further alleged that FIR was lodged with the Police Station. The alleged theft has been admitted by Shri P.S. Sharma, Shri Chhottey Lal and Paras Nath Yadav. It is further alleged that the enquiry was proper and legal.

In the rejoinder the workman has asserted his claim in the claim statement. The reference was contested on the following issue :—

1. As per reference ?

I have heard the representative of both the parties and gone through the evidence on record. My findings on the above issue are as under :—

Issue No. 1 :

The management has examined MW-1, Shri O.P. Gupta who was an enquiry Officer. Ex. M-8 is the charge-sheet. He has further stated that full opportunity was given to the workman. He recorded the proceedings. He submitted his enquiry report Ex. M-7. He has not been cross examined on the point that no proper opportunity was given to the workman. It is therefore clear that enquiry was fair and proper. The reply to the charge-sheet was Ex. M-9. As against this evidence the workman has appeared as WW-1 and he also examined WW-2 Shri Paras Nath Yadav who was heard chowkidar. I have also perused the entire enquiry file. The charges against

the workman were that theft had taken place in tool room. He remained on duty at 22.00 hrs on 17th March, 1983 to 6.00 hrs on 18th March, 1983. The workman failed to detect any theft. He failed to intimate the same to the next superior Officer. The workman had replied the charge-sheet,—vide Ex. M-9 that there was darkness behind the tool room. Storm and rain was going on. There was no lock on the main gate of the factory. There was lock in the office room. Hence he was unable to take round. He was also cross-examined by the enquiry officer. He has admitted that his duty was to take round from 10.00 p.m. to 6.00 p.m. on the next date. He has further admitted that there was no dark in the tool room. One tube was lighting. He was afraid to take round because he was alone. Admission in the statement and the reply of the charge-sheet Ex. M-9 also proved that the workman was careless in performing the duty of chowkidar. Hence the theft had taken place in the tool room. His duty was to detect the theft but he grossly failed to perform his duty. He was afraid to take round. Hence he is not fit for the post of chowkidar or watchman. I therefore find that the enquiry was fair and proper. The workman was grossly negligent in performing his duty so the window pane was broken and theft had taken place in the tool room where the workman was posted as watchman. He has failed to perform the duty. It is an act of negligence of the part of the workman. The management has lost confidence in him. Hence his services were law fully terminated. Hence is not entitled to any relief.

The award is given accordingly.

Dated : 16th April, 1985.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

Endst. No. 1597, dated 16th April, 1985.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

No. 9/5/84-6Lab/4619.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the Workman and the management of M/s Faridabad Central Co-operative Bank Ltd., Faridabad:—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 68 of 1984

between

SHRI KARAN SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S  
FARIDABAD CENTRAL CO-OPERATIVE BANK LTD., FARIDABAD

Present :—

Shri S.S. Gupta, for the workman.

Shri V.K. Sharma, for the respondent-management.

#### AWARD

This reference has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/11-84/16088-93, dated 25th April, 1984, under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the Industrial Disputes existing between Shri Karan Singh, workman and the respondent-management of M/s Faridabad Central Co-operative Bank Ltd., Faridabad. The term of the reference was :—

“Whether the termination of service of Shri Karan Singh was justified and in order ? If not, to what relief is he entitled ?”

According to the claim statement the workman was appointed as Clerk with the management on 15th February, 1978. His services were terminated w.e.f. 3rd November, 1980. It is alleged that it is retrenchment and the provisions of law have not been complied with before terminating the services of the workman. It is further alleged that after his termination several new hands have been appointed in his place.



This claim of the workman has been contested by the management. It is alleged that the applicant was appointed on daily wages and his services would be terminated without any notice. Hence his services were terminated as no longer required. It is further alleged that his previous demand notice was withdrawn by him on 30th September, 1982. The writ petition was also filed in the High Court which was also withdrawn. The date of appointment as 15th February, 1978 was denied. It is alleged that he was appointed on 5th February, 1978. It is alleged that the writ petition was withdrawn as cooperative Society is not a statutory. His previous demand notice was withdrawn and as the writ petition was pending.

The parties contested the reference on the following issue :—

(1) As per reference ?

I have perused the entire evidence produced by the parties and gone through the record. My findings on the issue is as under :—

*Issue No. 1.*—The management has examined Shri Kirshan Lal. He has admitted that the claimant was appointed on 5th February, 1978 for 89 days only and his services were terminated on 3rd November, 1980. It is further clear that the workman has worked for more than one year and it is presumed that he had worked for 240 days in a year and there is no evidence that the claimant had proceeded on leave during his employment. The workman as W-1 also supported his contention. It is contended by the representative of the management that under rule 5(4) of the Haryana State Central Co-operative Bank Staff Service Common Cadre Rules, 1975, the services of the claimant could be terminated without any notice. In the present case Industrial Disputes Act, applies and under Section 25-F the claimant could be retrenched only if compensation under Section 25-F was paid to him. The claimant earlier withdrew his writ petition in the Hon'ble High Court in Civil Writ Petition No. 4223 of 1980. In this case it was held that the case was covered under the Industrial Disputes Act. Copy of the judgement is already on the file. I, therefore, find that the case of the claimant is covered under the Industrial Disputes Act, 1947. The claimant has already completed 240 days within last one year. His services could be terminated after compliance of section 25-F of the Industrial Disputes Act. In the present case no retrenchment benefit was given to the workman at the time of termination of his services. Hence the termination of services of the workman is illegal and un-justified. He is entitled to reinstatement with continuity of service and with full back wages. The reference is answered accordingly.

Dated the 16th February, 1985.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

Endst. No. 450, dated the 27th February, 1985

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act.

R.N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.

The 7th June, 1985

No. 9/5/84-Lab/4538.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s. Joy-B Industries, Plot No. 62, Sector 24 Faridabad.

BEFORE SHRI R.N. PATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 581/1983 and 482/1983

between

SARVSHRI BRAHMA NAND AND PARSHOTAM, WORKMEN AND THE MANAGEMENT OF M/S.  
JOY-B INDUSTRIES, PLOT NO. 62 SECTOR-24, FARIDABAD

Present.—

Shri R. L. Sharma, for the workmen.

Shri R.C. Sharma, for the management.



## AWARD

This order will dispose of two references bearing No. 581 of 1983 (Brahma Nand V/s Joy-B Industries, Plot No. 62, Sector 24, Faridabad and 582 of 1983 (Shri Parsotam V/s Joy B-Industries, Plot No. 62, Sector 24, Faridabad) which have been consolidated on the request of the parties because common questions of law and facts were involved therein. The main proceedings have been held in reference No. 581 of 1983.

2. In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Sarvshri Brahma Nand and Parshotam workmen and the Management of M/s Joy-B Industries, Plot No. 62, Sector 24, Faridabad to this Tribunal for adjudication regarding the termination of their services.

3. It was alleged in the claim statement dated 17th September, 1983 that the services of the claimant were terminated by the respondent management without prior notice nor any charge-sheet was issued to them nor any enquiry was held. It was therefore, prayed that the claimant be reinstated with full back wages.

4. The Management in their written statement dated 12th October, 1984 pleaded that the claimants were charge-sheeted because they did not do the sand making job, due to which the work of the factory was stopped. It was then pleaded that Shri Satish Kumar Advocate was appointed as Enquiry Officer who had held the enquiry in which the claimants participated and were represented by Shri Chaman Lal Oberai and Shri Jagan Nath. It was further pleaded that the enquiry was held properly and that on receiving of the enquiry report, the Management issued the second show cause notice to the claimants who submitted their replies which were not found to be satisfactory and ultimately the management dismissed the claimants on 30th June, 1983. It was also pleaded that the claimants were gainfully employed.

5. The claimants in their rejoinder, dated 12th November, 1984 reiterated the pleas taken in the claim statement.

6. On the pleadings of the parties, the following issues were framed on 3rd December, 1984 :—

- (1) Whether the enquiry is fair and proper? OPM
- (2) Whether the claimants are gainfully employed? OPM
- (3) Whether the termination of services of Shri Brahma Nand and Parshotam was justified and in order? If not to what relief they are entitled? OPM

7. It may be mentioned that the Management has examined one witness and documents, Ex. M-1 to M-35 have been tendered into evidence. Both the claimants have appeared in the witness box. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under:—

*Issue No. 1*

8. The management has examined MW-1 Shri Satish Ahuja, Enquiry Officer who stated that he was appointed Enquiry Officer against the claimants and that Ex. M-1 and M-3 were the Charge-sheets. He further stated that the enquiry was held by him in which both the claimants participated and were represented by Shri Jagan Nath and Shri C. L. Oberai. He further stated that the witnesses of the management were cross-examined by the claimants, who produced their defence evidence. He then stated that Ex. M-7 contained the day-to-day enquiry proceeding and Ex. M-8 to M-16 were produced during the enquiry, while the correspondence, which took place was Ex. M-17 to M-27. He also stated that Ex. M-28 was the report containing his findings. Documents Ex. M-29 to M-39 have been tendered into evidence.

9. WW-1 Shri Brahma Nand, claimant stated that he worked in the respondent factory as helper for about seven years and was turned out in July, 1983. He further stated that the charge-sheet was given to him but full opportunity was not given to him to lead defence evidence and that the Management did not ask him to join duty even though he was willing to do so. WW-2 Shri Parshotam, claimant stated that he had served the respondent for about 7 years, when he was turned out and that he was not given full opportunity to lead evidence and was willing to join duty.

10. A perusal of the above evidence would show that in the charge-sheets it was alleged that on 4th February, 1983, the claimants did not start work upto 10.00 a.m. and that the job of the claimants was to make sand and forward the same to the moulding departments and that due to these activities of the claimants, the work of the factory remained closed. The enquiry proceedings Ex. M-7 shows that the management examined Shri Umesh Kapila, Shri Subhash Sood, Shri V. K.



Khajuria. Shri Tara Singh, Shri Ram Kirpal, Shri Vishnu Chand and Shri Nathu Ram who supported the charges levelled against the claimants. The claimants examined themselves and produced SarvShri Marhu Parsad, Vakeel Shah and Ram Badan. The Enquiry Officer disbelieved the statements of the witnesses produced by the claimants on the ground that the same were contradictory in nature while the testimony of the witnesses produced by the management was accepted because their statements proved the allegations made in the chargesheet, Shri B. P. Khajuria who appeared as MW-3 before the enquiry Officer stated that the claimants demanded more persons to make the sand but were informed that sufficient persons were given to them according to the agreement. Similar statement was made by Shri Vishnu Chand, who appeared in the proceedings as MW-6. The claimants have not led cogent evidence to show that the number of persons given for making the sand was less or that the provisions of agreement were being violated by the respondent management. Both the sides adduce their evidence and witnesses were cross-examined. The claimants were represented by Shri C. L. Oberai and Mr. Jaga Nath during the enquiry. The copies of day-to-day proceedings were given to the claimants as stated by MW. 1 Shri Satish Ahuja Enquiry Officer. Consequently, the enquiry held against the claimants was fair and proper. The issue is decided accordingly in favour of the Management.

11. The claimants while appearing as WW-1 and WW-2 stated that they are still unemployed. There is no cogent evidence in rebuttal. It is thus held that the claimants are not gainfully employed. The issue is decided accordingly against the Management.

*Issue No. 3*

12. It was argued by the representative of the claimants that the punishment awarded to the claimants was disproportionate to the charge levelled against them, while it was argued by the opposite side that punishment was proportionate to the charge proved against the claimants. The evidence shows that the claimants did not prepare the sand under some erroneous belief that they were entitled to more persons for making sand and that terms of the agreement were being violated. Under these circumstances the punishment of dismissal is disproportionate to the charge proved against the claimants. The ends of justice would be met if the order of termination of service is set aside and both the claimants are reinstated but for their misconduct they are not given of the back wages. The award is passed accordingly.

Dated the, 22nd May, 1985.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 424, dated 22nd May, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

• The 18th June, 1985

No. 9/5/84-6Lab/5091.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Vinex Plot No. 24, Dhuru Hera, Industrial Complex, Rewari.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 53 of 1984

*between*

SHRI RAJ KUMAR, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
VINEX PLOT NO. 24, DHARU HERA, INDUSTRIAL COMPLEX, REWARI

None, for the workman.

Shri M. P. Gupta, for the respondent management.

## AWARD

This industrial dispute between the workman Shri Raj Kumar and the respondents management of M/s. Vinex Plot No. 24, Dharu Hera, Industrial Complex, Rewari has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/3/-84/9285—90, dated 5th March, 1984, under section 10 (1) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference was:—

Whether the termination of services of Shri Raj Kumar was justified and in order ? If not, to what relief is he entitled ?

The workman is proceeded *ex parte* as it is already 10.50 a.m. According to the claim statement the services of the workman were terminated illegally. Domestic enquiry was not fair and proper. The person who issued him the chargesheet was only a technical Supervisor, whereas the chargesheet should be served upon, by the management. It is further stated that Shri Murli Kumar was not allowed to represent him. Hence it is prayed that the workman be reinstated with continuity of service.

The management has denied all the charges. It is alleged that fair and proper enquiry was held. The workman did not participate in the enquiry. After enquiry report show cause notice was issued to the workman. He has replied this notice. His services were legally terminated.

These averments have been denied by the workman. The reference was contested on the following issues:—

1. As per reference ?

I have heard the representative of the management and gone through the evidence on record. My findings on the issue are as under:—

## ISSUE NO. I :—

The management examined MW. 1 Shri Subodh Kumar and MW-2 Shri Navdeep. I have perused the statements. It shows that the workman was issued several letters but he did not appear in the enquiry and did not participate in the enquiry. According to the chargesheet he abused his supervisor, pushed him and was ready to beat him. Shri Jagdish Chander, Rajinder and Shri Subhash rescued the supervisor. Shri P.K. Arora, was present there when he committed misconduct. Shri Rajinder Kumar and Shri Lal Chand were examined, who have supported the allegations in the chargesheet. I, therefore, find that the enquiry was fair and proper and full opportunity was given to the workman to appear in the proceedings but he did not take part in proceeding. He had committed gross mis-conduct by abusing the supervisor. His services therefore were legally terminated. He is not entitled to any relief. The award is given accordingly.

Dated the 23rd May, 1985.

R. N. SINGAL,

Presiding Officer,  
Labour Court,  
Faridabad.

Endst. No. 1722, dated 1st June, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,

Presiding Officer,  
Labour Court,  
Faridabad.